



Comptroller General
of the United States

43-254

Washington, D.C. 20548

Decision

Matter of: Dictaphone Corporation--Reconsideration
File: B-254920.3
Date: May 2, 1994

DECISION

Dictaphone Corporation requests reconsideration of our decision in Dictaphone Corp., B-254920.2, Feb. 7, 1994, 94-1 CPD ¶ 75, in which we denied its protest against the cancellation of purchase orders issued to the firm by the Department of Veterans Affairs (VA) under a request for quotations (RFQ) for a centralized dictation system for the VA Medical Center in Muskogee, Oklahoma, and the subsequent issuance of a purchase order to Lanier Business Products.

Specifically, in that decision, we concluded that after issuing purchase orders to Dictaphone for equipment on the Federal Supply Schedule (FSS) and then concluding that the RFQ did not specify all of the VA's minimum needs, the VA properly took corrective action by suspending Dictaphone's performance of the purchase orders, advising Dictaphone and Lanier--the firms which initially submitted quotes--of the VA's additional requirements, and then requesting revised quotes from both of these firms. We concluded that upon receiving revised quotes, based on a standard clause contained in FSS contracts, the VA was not precluded from considering Lanier's promotional discounts which resulted in that firm's revised quote being low priced. We also concluded that contrary to Dictaphone's assertion, we did not believe an impermissible auction resulted because the VA revealed the terms of Dictaphone's initial quote to Lanier. In this regard, the record showed that Lanier's promotional discounts were in effect prior to Lanier's review of Dictaphone's quote. In our view, there was no evidence in the record that the VA's decision to reopen the competition was motivated by the availability of Lanier's promotional discounts. Rather, because neither Dictaphone's nor Lanier's initial quote would satisfy the VA's minimum needs, the VA reopened the competition to obtain an upgraded system which would meet its needs.

We deny the request for reconsideration.

On reconsideration, Dictaphone disagrees with our original decision, arguing for the first time that Lanier's revised quote did not reflect the promotional discounts, but rather,

an increase in the trade-in allowance for used equipment and a decrease in Lanier's maintenance charges. Dictaphone maintains that it is irrelevant that Lanier's promotional discounts were in effect prior to Lanier's reviewing Dictaphone's quote because the promotional discounts were not the basis for Lanier's revised quote. Instead, Dictaphone maintains that after Lanier reviewed its quote, Lanier manipulated the trade-in allowance and maintenance charges in order to underprice Dictaphone. Dictaphone makes this argument based on a comparison of Lanier's initial and revised quotes and based on Lanier's letter and attachments offering the promotional discounts, all documents which were included in the agency's administrative report filed on November 8, 1993, for which Dictaphone filed comments on November 29.

Under our Bid Protest Regulations, to obtain reconsideration, the requesting party must show that our prior decision may contain errors of fact or law or present information not previously considered that warrants reversal or modification of our decision. 4 C.F.R. § 21.12(a) (1993). In order to provide a basis for reconsideration, information not previously considered must have been unavailable to the party seeking reconsideration when the initial protest was being considered. Ford Contracting Co.--Recon., B-248007.3; B-248007.4, Feb. 2, 1993, 93-1 CPD ¶ 90. A party's failure to make all arguments or to submit all information available during the course of the initial protest undermines the goal of our bid protest forum--to produce fair and equitable decisions based on consideration of the parties' arguments on a fully developed record--and cannot justify reconsideration of our prior decision. Dictaphone Corp.--Recon., B-244691.3, Jan. 5, 1993, 93-1 CPD ¶ 2; The Department of the Army--Recon., B-237742.2, June 11, 1990, 90-1 CPD ¶ 546.


Here, the record clearly shows that Dictaphone's argument on reconsideration is based on information available to it during our consideration of its initial protest, but was not presented or argued at that time. Therefore, we will not consider this argument raised for the first time on reconsideration. We point out, however, that it is clear from Lanier's revised quote that it did offer a discount from its initial quote and that at least a portion of the discount was based on promotional discounts available prior to its review of Dictaphone's quote. If Dictaphone believed that Lanier's revised quote was not based on the promotional discounts, Dictaphone cannot timely raise this issue now.

Dictaphone also disputes our conclusion that in its comments to the agency report, it abandoned the argument made in its initial protest concerning the agency's determination that a file server was a minimum need. We point out that the

agency explained in detail in its report that a file server was a minimum need in order for the system supervisor to maintain centralized management and control of the facility's transcription functions. In its comments to the agency report, while Dictaphone stated that its equipment would meet the agency's minimum needs without a file server, we did not consider, and still do not consider, this statement to constitute a meaningful rebuttal to the agency's above-referenced position.

The request for reconsideration is denied.



 Robert P. Murphy
Acting General Counsel